



**PUBLIC HEARING
BEFORE THE HEBGEN LAKE
PLANNING AND ZONING COMMISSION**

**WARWAGON SERVICES (ARNADO)
INTERPRETATION OF USE**

FINDINGS OF FACT AND ORDER

PURSUANT TO the Hebgen Lake Zoning Regulation, which was adopted on November 13, 1975 and amended thereafter, and after legal notice, a public hearing was held before the Hebgen Lake Planning and Zoning Commission ("Planning and Zoning Commission") in West Yellowstone, MT on April 19, 2007. The purpose of the hearing was to interpret the Hebgen Lake Zoning Regulation, and decide whether War Wagon Services at 1 Sheriff Way is an accessory use, or strictly a commercial use of the property.

THEREFORE, after hearing and considering all public testimony, the Hebgen Lake Planning and Zoning Commission makes the following Findings of Fact:

FINDINGS OF FACT

1. William (Bill) and Gail Arnado live at 1 Sheriff Way in the Existing Residential (RX) District of the Hebgen Lake Zoning District (Lot 30, Horse Butte Acres Subdivision; Northeast quarter of Section 25, Township 12 South, Range 4 East, Gallatin County, MT).
2. **Section 5.5** allows the Planning and Zoning Commission to make official interpretations of the Hebgen Lake Zoning Regulation.
3. **Section 6.1** defines an Accessory Use or Building as, "A building or use which: 1) is subordinate in area, extent or purpose to the principal use served; or 2) contributes to the

comfort, convenience, or is a necessity for the occupants of the principal building or principal use.

4. **Section 6.15** defines Commercial as, “A use which involves the exchange of goods and services, for compensation, whether by money, barter, forgiveness of indebtedness, or any other remuneration in exchange for goods, services, lodging, meals, entertainment in any form, or the right to occupy space over a period of time.
5. **Section 6.37** defines Home Occupation as, “A home occupation is a commercial activity conducted in a home or an accessory building, by the resident family, in compliance with this Regulation.”
6. **Section 16.10** defines development standards for a Home Occupation. They include:
 - a. All home occupations shall be conducted entirely within the dwelling or an accessory building.
 - b. No home occupation shall occupy more than 20 percent of the gross floor area of the structures on the lot, not to exceed 400 square feet.
 - c. Home occupations shall have no on-site employees other than members of the resident’s family.
 - d. Home occupations shall not alter or detract from the residential character of the premises on which they are conducted.
 - e. Home occupations shall not solicit or attract walk-in customers.
7. Pursuant to Section 7.2 of the Hebgen Lake Zoning Regulation, permitted uses in the RX District include one single family dwelling per existing lot, accessory uses, and home occupations.
8. On March 6, 2006 and June 10, 2006, the Code Compliance Specialist received complaints from the Hebgen Lake Advisory Committee and Mr. Tom Hall respectively, that Mr. Arnado is

running a commercial business from his property at 1 Sheriff Way, and that this use violates the Hebgen Lake Zoning Regulation.

9. On July 18, 2006, the Code Compliance Specialist determined that Mr. Arnado does not have a legitimate home occupation because his businesses do not meet the Section 16.10 standards for a home occupation.
10. Mr. Arnado testified that his employees work off site 99% of the time. He has up to three part time employees. His employees have helped him plant trees on the property and spent three and a half hours this winter assisting with his snowplow. Mr. Arnado testified that his employees come to his property intermittently, not every day. He testified that he has a business license for War Wagon Services, that his residence is the physical address for the business, and that he started the business sometime after 1997 but before 2000. He also stated that he stores equipment and vehicles in other locations in and around West Yellowstone, including the West Yellowstone Village maintenance yard. Mr. Arnado testified that he keeps one snow plow at home, and one in West Yellowstone, and that he and his wife drive the plow trucks. He also stated that Gus Thurman worked for him this year plowing snow with a bobcat.
11. Mr. Scott Carsley testified that Mr. Arnado's operates commercial businesses at 1 Sheriff Way, uses the property for storage, and has onsite employees. The commercial uses negatively impact the quality of life and neighbor relationships of the community.
12. After considering public testimony and in board discussion, the Hebgen Lake Planning and Zoning Commission found that the intent of the Section 7, RX Zoning is residential use, not commercial use.
13. After considering public testimony and in board discussion, the Hebgen Lake Planning and Zoning Commission found that Mr. Carsley's testimony was persuasive that Mr. Arnado is

conducting commercial businesses from the property, and that the uses impact the residential character of the neighborhood.

14. After considering public testimony and in board discussion, the Hebgen Lake Planning and Zoning Commission found that the tree nursery / tree planting business is an accessory use. Mr. Arnado does not sell his trees from home, and does not have a sign on site. The tree planter mounted on a backhoe is for Mr. Arnado's comfort and convenience, and may be stored in his shed to maintain trees.
15. After considering public testimony and in board discussion, the Hebgen Lake Planning and Zoning Commission found that Mr. Arnado does not need to tear his trees out, but he should not dig them up and sell them.
16. After considering public testimony and in board discussion, the Hebgen Lake Planning and Zoning Commission found that the storage of snowplows and coming and going of plow vehicles is a commercial use, as defined by the Hebgen Lake Zoning Regulation.
17. After considering public testimony and in board discussion, the Hebgen Lake Planning and Zoning Commission found that the excavation component of War Wagon Services does not comply with the Home Occupation standards of Section 16.10, and is a commercial use, as defined by the Hebgen Lake Zoning Regulation.

ORDER

The Hebgen Lake Planning and Zoning Commission hereby orders:

1. A motion was made by Commissioner White, and seconded by Commissioner Skinner that the snow blowing component of War Wagon Services at 1 Sheriff Way constitutes a commercial use of the property. The Motion was unanimously approved by a six to zero (6:0) vote.

2. A motion was made by Commissioner Murdock, and seconded by Commissioner Skinner that the excavation component of War Wagon Services at 1 Sheriff Way constitutes a commercial use of the property. The Motion was unanimously approved by a six to zero (6:0) vote.
3. A motion was made by Commissioner Skinner, and seconded by Commissioner White that the tree nursery/tree planting component of War Wagon Services at 1 Sheriff Way constitutes an accessory use of the property. The Motion was approved by a four to two (4:2) vote (Commissioner Murdock and Commissioner Horn opposed).

Hebgen Lake Planning and Zoning Commission

Kimberly Buchanan, Chairman

Date

William A Murdock, Member

Date

R. Stephen White, Member

Date

Joe P. Skinner, Member

Date

Excused

Anne Trygstad, Member

Date

Beth Horn, Member

Date

Charlotte Mills, Member

Date